UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA,

    Plaintiff - Appellee,

v.

MICHAEL DON MASS,

    Defendant - Appellant.

Nos. 07-7066 & 07-7072
(D.C. No. 1:07-CR-26-RAW)

ORDER

Filed October 25, 2007

Before **KELLY**, **O'BRIEN** and **TYMKOVICH**, Circuit Judges.

This matter is before the court on the government's motion to dismiss the captioned appeals. We agree with the government that this court lacks jurisdiction over these interlocutory appeals, and, accordingly, grant the motion.

The defendant appeals the denial of his motion to appoint an economist to refute the amount of loss set forth in the presentence report, as well as the district court's denial of his motion to stay the matter pending disposition of the interlocutory appeal.

Generally, the final judgment rule prohibits appellate review in a criminal case until after conviction and imposition of sentence. *Flanagan v. United States*, 465

U.S. 259, 263 (1984). "The rule of finality has particular force in criminal prosecutions because encouragement of delay is fatal to the vindication of the criminal law." *United States v. MacDonald*, 435 U.S. 850, 853-54 (1978) (internal quotation omitted). *See also United States v. P.H.E.*, 965, 854 (10th Cir. 1992) (interlocutory appeals in criminal cases have been allowed only in the narrow circumstance where "the substantive constitutional right at stake included the right to be free from the adverse effect of undergoing the trial itself.").

The defendant contends that there is jurisdiction under the collateral order doctrine as set out in *Cohen v. Beneficial Industrial Loan Corp.*, 337 U.S. 541 (1949) (an interlocutory order may be immediately appealable if it conclusively determines the disputed question, resolves an important issue completely separate from the merits, and is effectively unreviewable on appeal from a final judgment). This argument is without merit.

APPEALS DISMISSED.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

Ellen Rich Reiter
Deputy Clerk/Jurisdictional Attorney